

SENATE BILL No. 115

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-4-3.

Synopsis: Annexation. Specifies the information that must be contained in an ordinance of an annexation initiated by a municipality. Provides that a county auditor shall forward a copy of an annexation ordinance to the secretary of state. Provides that an annexation does not take effect until a copy of the annexation ordinance is filed with the secretary of state. Requires the county auditor to notify the secretary of state of the date an annexation ordinance or a disannexation becomes effective. Provides that the secretary of state must receive various filings and notices concerning a disannexation proceeding. Provides that the township trustee must receive a notice of an annexation or a disannexation. Provides that certain annexation filing requirements are satisfied if annexation is entered by the county auditor on the property tax records as having become effective on or after July 1, 1997, and before July 1, 1999. Provides that certain disannexation filing requirements are satisfied if the disannexation order is filed with the circuit court clerk on or after July 1, 1997, and before July 1, 1999.

Effective: July 1, 1999.

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January 6, 1999, read first time and referred to Committee on Governmental and Regulatory Affairs.



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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE BILL No. 115

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-4-3-3.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 1999]: **Sec. 3.5. (a) This section does not apply to an annexation**
4 **under section 5 of this chapter.**

5 **(b) An ordinance adopted under section 3 or 4 of this chapter**
6 **must contain at least the following information:**

7 **(1) A legal description of the boundaries of the territory to be**
8 **annexed.**

9 **(2) The total number of acres in the territory to be annexed.**

10 **(3) A description of any special terms and conditions adopted**
11 **under section 8 of this chapter.**

12 **(4) A description of any property tax abatements adopted**
13 **under section 8.5 of this chapter.**

14 SECTION 2. IC 36-4-3-7 IS AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 1999]: **Sec. 7. (a) After an ordinance is adopted**
16 **under section 3, 4, or 5 of this chapter, it must be published in the**
17 **manner prescribed by IC 5-3-1. Except as provided in subsection (b) or**



(c), in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter, the ordinance takes effect at least sixty (60) days after its publication and ~~upon the filing required by~~ **when the requirements of section 22(a) and 22(d)(5) of this chapter have been satisfied.**

(b) An ordinance described in subsection (d) or adopted under section 3, 4, or 5 of this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. An ordinance that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

(c) Subsections (d) and (e) apply to fire protection districts that are established after June 14, 1987.

(d) Except as provided in subsection (b), whenever a municipality annexes territory, all or part of which lies within a fire protection district (IC 36-8-11), the annexation ordinance (in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter) takes effect the second January 1 that follows the date the ordinance is adopted and ~~upon the filing required by~~ **when the requirements of section 22(a) and 22(d)(5) of this chapter have been satisfied.** The municipality shall:

(1) provide fire protection to that territory beginning the date the ordinance is effective; and

(2) send written notice to the fire protection district of the date the municipality will begin to provide fire protection to the annexed territory within ten (10) days of the date the ordinance is adopted.

(e) If the fire protection district from which a municipality annexes territory under subsection (d) is indebted or has outstanding unpaid bonds or other obligations at the time the annexation is effective, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the annexed territory (that is part of the fire protection district) bears to the assessed valuation of all property in the fire protection district, as shown by the most recent assessment for taxation before the annexation, unless the assessed property within the municipality is already liable for the indebtedness. The annexing municipality shall pay its indebtedness under this section to the board of fire trustees. If the indebtedness consists of outstanding unpaid bonds or notes of the fire protection district, the payments to the board of fire trustees shall be made as the principal or interest on the bonds or notes becomes due.

SECTION 3. IC 36-4-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. (a) The court's judgment under section 12 or 15.5 of this chapter must specify the



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annexation ordinance on which the remonstrance is based. The clerk of the court shall deliver a certified copy of the judgment to the clerk of the municipality. The clerk of the municipality shall:

- (1) record the judgment in the clerk's ordinance record; and
- (2) make a cross-reference to the record of the judgment on the margin of the record of the annexation ordinance.

(b) If a judgment under section 12 or 15.5 of this chapter is adverse to annexation, the municipality may not make further attempts to annex the territory during the two (2) years after the later of:

- (1) the judgment of the circuit or superior court; or
- (2) the date of the final disposition of all appeals to a higher court; unless the annexation is petitioned for under section 5 of this chapter.

(c) If a judgment under section 12 or 15.5 of this chapter orders the annexation to take place, the annexation is effective when the ~~clerk of the municipality complies with the filing requirement~~ **requirements of section 22(a) and 22(d)(5) of this chapter are satisfied.**

SECTION 4. IC 36-4-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) If disannexation is ordered under this chapter by the works board of a municipality and no appeal is taken, the clerk of the municipality shall, without compensation and not later than ten (10) days after the order is made, make and certify a complete transcript of the disannexation proceedings to the auditor of each county in which the disannexed lots or lands lie and to ~~the state certifying official designated under IC 3-6-4.2-11;~~ **the office of the secretary of state.** The county auditor shall list those lots or lands appropriately for taxation. The proceedings of the works board shall not be certified to the county auditor **or to the office of the secretary of state** if an appeal to the circuit court has been taken.

(b) In all proceedings begun in or appealed to the circuit court, if vacation or disannexation is ordered, the clerk of the court shall immediately after the judgment of the court, or after a decision on appeal to the supreme court or court of appeals if the judgment on appeal is not reversed, certify the judgment of the circuit court, as affirmed or modified, to:

- (1) the auditor of each county in which the lands or lots affected lie, on receipt of one dollar (\$1) for the making and certifying of the transcript from the petitioners for the disannexation;
- (2) ~~the state certifying official designated under IC 3-6-4.2-11;~~ **office of the secretary of state;** and
- (3) the circuit court clerk, and if a board of registration exists, the board of each county in which the lands or lots affected are



located.

(c) The county auditor shall forward a list of lots or lands disannexed under this section to the following:

- (1) The county highway department.
- (2) The county surveyor.
- (3) Each plan commission, if any, that lost or gained jurisdiction over the disannexed territory.
- (4) ~~Any state agency that has requested copies of disannexations filed with the county auditor under this section.~~ **The township trustee of each township that lost or gained jurisdiction over the disannexed territory.**
- (5) **The office of the secretary of state.**

The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the list of disannexed lots or lands or may charge the clerk a fee for photoreproduction of the list.

(d) A disannexation described by this section takes effect upon the **clerk of the municipality** filing of the order with: ~~the circuit court clerk and the state certifying official.~~

- (1) **the county auditor of each county in which the annexed territory is located; and**
- (2) **the circuit court clerk, or if a board of registration exists, the board of each county in which the annexed territory is located.**

(e) **The clerk of the municipality shall notify the office of the secretary of state of the date a disannexation is effective under this chapter.**

~~(e)~~ (f) A disannexation order under this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. A disannexation order that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

SECTION 5. IC 36-4-3-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 22. (a) The clerk of the municipality shall:

- (1) file each annexation ordinance against which a remonstrance or appeal has not been filed during the period permitted under this chapter or the certified copy of a judgment ordering an annexation to take place with:
 - (A) the county auditor of each county in which the annexed territory is located; **and**
 - (B) the circuit court clerk, ~~and~~ **or** if a board of registration



exists, the board of each county in which the annexed territory is located; and

~~(C) the state certifying official designated under IC 3-6-4.2-11;~~
and

(2) record each annexation ordinance adopted under this chapter in the office of the county recorder of each county in which the annexed territory is located.

(b) The copy must be filed and recorded no later than ninety (90) days after:

(1) the expiration of the period permitted for a remonstrance or appeal; or

(2) the delivery of a certified order under section 15 of this chapter.

(c) Failure to record the annexation ordinance as provided in subsection (a)(2) does not invalidate the ordinance.

(d) The county auditor shall forward a copy of any annexation ordinance filed under this section to the following:

(1) The county highway department.

(2) The county surveyor.

(3) Each plan commission, if any, that lost or gained jurisdiction over the annexed territory.

~~(4) Any state agency that has requested copies of annexations filed with the county auditor under this section. The township trustee of each township that lost or gained jurisdiction over the annexed territory.~~

(5) The office of the secretary of state.

(e) The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the annexation ordinance or may charge the clerk a fee for photoreproduction of the ordinance. **The county auditor shall notify the office of the secretary of state of the date that the annexation ordinance is effective under this chapter.**

(f) The county auditor shall, upon determining that an annexation ordinance has become effective under this chapter, indicate the annexation upon the property taxation records maintained in the office of the auditor.

SECTION 6. [EFFECTIVE JULY 1, 1999] **(a) Notwithstanding IC 36-4-3-22, as amended by this act, the requirements of IC 36-4-3-22(a) are satisfied if the annexation is entered by the county auditor on the property tax records as having become effective as set forth in IC 36-4-3-22(f) on or after July 1, 1997, and before July 1, 1999.**

(b) Notwithstanding IC 36-4-3-19, as amended by this act, the



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1 requirements of IC 36-4-3-19(d) are satisfied if the disannexation
2 order is filed with the circuit court clerk under IC 36-4-3-19(d) on
3 or after July 1, 1997, and before July 1, 1999.

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